



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/095, 174	06/10/98	SEITZ	W NIOX: 002--/H

DANIEL S HODGINS
ARNOLD WHITE & DURKEE
P O BOX 4433
HOUSTON TX 77057-2198

HM42/1127

EXAMINER

SCHENKMAN, L

ART UNIT

PAPER NUMBER

1614

5

DATE MAILED:

11/27/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 09/095,174	Applicant(s) Seltz et al.
Examiner L. Schenkman	Group Art Unit 1614



Responsive to communication(s) filed on _____

This action is FINAL.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

Claim(s) 1-32 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-32 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1614

Claims 1-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-11 are improper hybrid claims in that both a method of preparation and a method of use are set forth. Claims 22-29 are indefinite ~~since~~ since a single composition is set forth in the preamble and the body of the claims contain two separate ~~claims~~ ^{composition}. The method claims are indefinite in not setting forth a specific medical use.

Claims 1-32 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 30-32 lack support in the specification for the devises (containers) set forth therein. The claims are too broad absent proportions of claimed ingredients.

Smith et al. are cited to show the state of the art

Any inquiry concerning this communication should be directed to Examiner Schenkman at telephone number (703) 308-4644.



LEONARD SCHENKMAN
PRIMARY EXAMINER
GROUP 1614
(614)